



Agenda Date: 6/23/04
Agenda Item: 2A

STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
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ENERGY

IN THE MATTER OF THE ELECTRIC DISCOUNT) ORDER
AND ENERGY COMPETITION ACT OF 1999)
CUSTOMER ACCOUNT SERVICES PROCEEDING:)
CONSOLIDATED BILLING, CUSTOMER DATA CARD, &)
COMPETITIVE METERING. ENERGY CONSULTANT:)
AMENDMENT TO CUSTOMER USAGE INFORMATION) DOCKET NOS. EX99090676
PROCESS) and EX94120585Y

(Service List Attached)

BY THE BOARD:

Pursuant to the Board-approved Customer Account Services ("CAS") Stipulations of Settlement (Stipulations"), all issues in the Stipulations are to be subject to reconsideration.¹ This Order will consider the following CAS issues: modifications to the consolidated billing standards between third party suppliers ("TPSs") and the local distribution companies ("LDCs"); the creation of a customer data card for TPSs to obtain customer information; and competitive metering services provided by non-utility entities. In addition, the Board will consider modifications to the process by which energy consultants registered with this Board, can obtain customer historical usage data from the LDCs.

Procedural History

On February 9, 1999, the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. ("EDECA" or "Act") became law. One of EDECA's fundamental objectives was to achieve lower rates and better utility service by affording New Jersey energy consumers the opportunity to access the competitive markets for electric power generation and gas supply service. N.J.S.A. 48:3-50.

Pursuant to Section 6 of the Electric Discount and Energy Competition Act N.J.S.A. 48:3-54, it was required that the Board determine the manner and mechanics by which customers may

¹ The CAS Stipulations were approved by Board Orders, in Docket No. EX99090676, dated as follows: New Jersey Natural Gas Co.-December 6, 2000; Public Service Electric & Gas Co., Jersey Central Power & Light Co., Atlantic City Electric Co. now d.b.a. Conectiv Power Delivery-December 22, 2000; Rockland Electric Co.- May 9, 2001; Elizabethtown Gas Co.-May 6, 2002

choose a supplier for some or all customer account services, which are defined as metering, billing and other account administration functions. Therefore, on October 13, 1999 the Board established the CAS Working Group for the purposes of identifying the issues to be addressed and proposing a course of action to resolve these issues. The ultimate result of this process was a series of Board-approved Customer Account Services Stipulations of Settlement.

Pursuant to the Stipulations all issues would be subject to re-evaluation. Staff has initiated the re-evaluation process, in an informal working group environment, open to all interested parties.

On January 15, 2004 Staff requested comments from all interested parties on two CAS issues: consolidated billing standards and the customer data card, via the Board's electronic list server. Staff received comments from MxEnergy, Inc., ECONergy, and Total Gas & Electric Co. requesting a modification to the current consolidated billing standards between the LDCs and the TPSs. They did not comment on the data card. Specifically, they requested a modification to the standards in place for the billing party returning customers in arrears to dual billing from consolidated billing. Currently the billing party provides a consolidated bill to the customer, which includes the billing party's charges as well as the non-billing party's charges, so that the customer receives only one bill. It should be noted that while the CAS Stipulations allow for either the utility or the TPS to be the billing party, to date only the utilities have provided consolidated billing. Pursuant to the Stipulations, there is a provision for returning customers to dual billing if they are 60 days or more in arrears. A return to dual billing results in the customer receiving two bills: one from the utility; and one from the TPS. The commenting parties requested that the 60 day period be extended or eliminated as they claim it is harmful to customer interests. The commenting parties stated the following about the 60 day drop policy: customers do not want to receive multiple bills; dropping customers from consolidated billing is a disincentive for customers to remain in the customer choice programs; it increases TPS bad debt exposure which is reflected in higher costs to customers who choose to switch; and finally, that extending or eliminating the 60 day drop period would not be harmful to the billing party, in this case the utility.

On March 12, 2004 Staff met with the electric and gas industry in a working group environment to discuss the consolidated billing standards and the customer data card. After discussing the matter with all parties, it was decided that only the natural gas industry had any issues with the current consolidated billing standards. At that time, Staff also introduced the subject of competitive metering by non-utility entities as an additional CAS issue for discussion. The following parties participated in the working group process: Division of the Ratepayer Advocate; Public Service Electric & Gas, Co.; Jersey Central Power & Light Co.; Conectiv Power Delivery; Rockland Electric Co.; New Jersey Natural Gas Co.; Elizabethtown Gas Co.; South Jersey Gas Co.; MxEnergy, Inc.; ECONergy; Total Gas & Electric Co. Shell Energy Services; Direct Energy; Constellation NewEnergy; Energy Services Group; UGI Energy Services, Inc.; Dominion Retail, Inc., Select Energy; Electric America; Pepco Energy Services Co.; Amerada Hess Corp.; and the Mid-Atlantic Power Supply Association ("MAPSA").

Staff released a draft settlement proposal on March 23, 2004 via the Board's electronic list server, based on the positions agreed upon in principal by the participating parties at the meeting. Staff received comments supporting the proposal or suggesting minor modifications to it. Comments were received from: Public Service Electric & Gas, Co.; Jersey Central Power & Light Co.; Conectiv Power Delivery; Rockland Electric Co.; New Jersey Natural Gas Co.; Elizabethtown Gas Co.; South Jersey Gas Co.; Total Gas & Electric Co. Shell Energy Services; Direct Energy; Constellation NewEnergy; Energy Services Group; UGI Energy Services, Inc.; Dominion Retail, Inc.; and MAPSA.

Based on the suggested changes, Staff released a modified proposal for comment, via the Board's electronic list server on April 23, 2004. A number of minor language changes were eventually made to the April 23, 2004 proposal, leading to a final proposal being released for comment on May 13, 2004. No further comments were received.

During the aforementioned process, it was brought to Staff's attention that energy consultants registered with this Board were interested in obtaining customer historical usage data in the same manner allowed for third party suppliers. Although this issue was not initially proposed for discussion at this time, it is both a CAS issue and an energy competition issue and could have an effect on many of the same participants involved in the CAS process. Therefore it has been included herein.

By Order of January 9, 2004, Docket No. EX94120585Y, the Board modified its July 15, 1999 Board Order to allow as an alternative to the customer's written signature, that a TPS may receive historical usage data from the LDC by obtaining (1) the customer's electronic signature; (2) an audio recording of a telephone call initiated by the customer; (3) independent third-party voice-log authorization of a telephone call initiated by the TPS; or (4) pursuing such alternative forms of verification as the Board, in consultation with the Division of Consumer Affairs, may permit for switching electric power suppliers or gas suppliers and for contract renewal. It has come to Staff's attention that a number of energy consultants registered with this Board, want to be included in this modification. They currently can only obtain customer authorization through a written signature, pursuant to the Board Order of March 1, 2000, Docket No. EX94120585Y, which created the energy consultant category. The energy consultant category was created so that registered energy agents could obtain customer historical usage information from the LDCs, through an electronic data exchange ("EDI"), instead of through a manual process. The energy consultant category is a subset and option of the current energy agent registration process, N.J.A.C. 14:4-2.7. As part of the registration process, an energy consultant must meet all the registration requirements of an energy agent, as well as post a \$10,000 surety bond with the Board to insure against a failure to meet the consumer protection requirements.

Staff released the proposal on allowing the energy consultants to be permitted to use the additional methods for obtaining customer authorization, to the electric and gas industry on April 16, 2004 via the Board's electronic list server. The industry did not indicate a problem with this proposal.

Summary of Working Group Discussion & Findings

The first matter addressed by the working group was the issue regarding the timing to convert delinquent customers from consolidated to dual billing. The current process allows the gas distribution companies ("GDCs") to drop TPS customers from consolidated billing, who have fallen 60 days in arrears. A number of TPSs had indicated this is too short a period and had requested that the time period be extended or even be eliminated. The working group decided that only the natural gas industry had any issues with the current consolidated billing standards, therefore the following rules pertaining to utility consolidated billing only apply to the natural gas industry. It should be noted that while South Jersey Gas Company ("SJG") is not a party to the CAS Stipulations, SJG agrees with and will abide by all the findings and recommendations found herein. It should also be noted that a billing party may employ more flexible requirements than those below, but cannot be more restrictive.

The following standards, concerning consolidated billing, were agreed upon by the working group:

- a) A customer is entitled to a consolidated bill once it is deemed to be creditworthy by the billing party.
- b) The party providing consolidated billing will assume or purchase the receivables of the non-billing party. In Elizabethtown Gas Co.'s ("ETG") service territory, the party providing consolidated billing, will only assume the receivables of the non-billing party for residential and small commercial customers, as per the ETG CAS stipulation.
- c) A customer will be informed that the failure to keep their bill payment current may result in conversion from consolidated billing to dual billing for a period of one year, or less at the discretion of the billing party.
- d) Customer accounts that are 120 days in arrears will be considered seriously delinquent and, at the billing party's discretion, may be converted from consolidated to dual billing. The customer and the non-billing party will be notified that the consolidated bill will not be supplied and that dual billing will commence with the next meter reading date, as long as the next meter reading date is no less than 15 days from the date of said notification.
- e) If a customer is converted from consolidated to dual billing by any party for any reason, both the utility and the TPS will be responsible for its respective receivables, effective as of the start of dual billing.
- f) If the billing party assumes the non-billing party's receivables, then the billing party will provide a means for notifying the non-billing party, on at least a monthly basis, of all accounts 60 or more days in arrears. The notification will identify the customer, and at the discretion of the billing party may also include the amount of arrearage. Regarding the amount of arrearage, the billing party may provide either non-billing party-only arrearage or commingled arrearage of both the billing and non-billing party charges, dependant on which arrearage amount is utilized in the return to dual-billing criteria.
- g) The party providing consolidated billing may, after Staff review, charge an administrative fee, and/or discount the receivables rate in consideration of b, above. The billing party must also provide Staff with notice of any change to this administrative fee and/or discount rate and include the supporting documentation with the notice. The non-billing party retains its statutory right to question the change.
- h) TPSs are not required to provide consolidated billing, and TPS consolidated billing in SJG's service territory is not approved at this time.

The working group also addressed the customer data card. The CAS Stipulation called for the creation of a one-time generic response card, provided as a utility bill insert, that would assist TPSs, registered aggregators, and government aggregators in locating and marketing to customers. The insert would be in the form of a response card for customers to complete if they wanted to be contacted by energy marketers. The card would require the customer's name, address, and utility account number. It was supposed to be developed and paid for by a consortium of licensed TPSs and the Ratepayer Advocate, and then submitted to the Board for approval.

However, the working group agreed that it was no longer a cost justifiable endeavor. At the time the CAS Stipulations were agreed upon, the only manner in which a TPS could obtain a customer's historical usage data was through a written signature. Now this customer information can also be obtained through an electronic customer signature, recorded from an incoming

phone call from a customer, or an outgoing phone call by the TPS with verification by an independent third party. Also, historically, the use of bill inserts creates very few “hits” or customer responses, as customers often just throw them away. And finally, the residential and small commercial markets that this card was intended to reach have not yet developed.

Therefore, it was agreed that the cost and effort necessary to develop the customer data card process was no longer justified and, as it pertains to the CAS Stipulations, should no longer be considered.

The final issue addressed by the working group concerned competitive metering. Competitive metering was intended in EDECA to provide individual customers with an opportunity to be offered choices for the services of meter provider, meter installer, meter reader, meter data administrator, etc. However, the competitive marketplace in New Jersey, for both the electric and natural gas industries, is not sufficiently developed to economically warrant such changes, at this time. Therefore, the working group agreed that competitive metering, in the CAS/EDECA context, be tabled until no earlier than two years from the date of this Order.

Decision & Order

The Board supports the recommendations of the working group concerning consolidated billing standards, as a positive step in improving the state’s competitive natural gas market for third party suppliers. Therefore, the Board HEREBY ORDERS that the aforementioned amended standards for consolidated billing be implemented by the billing party. The foregoing changes in this Order supercede and replace, as appropriate, sections of each gas distribution company’s CAS Stipulation, GDC-specific Attachment on Consolidated Billing.

For Public Service Electric & Gas Co. (“PSE&G”), the changes should also be incorporated into the Third Party Supplier Customer Accounts (“TPS CAS”) Services Master Service Agreement between the TPS and PSE&G, where appropriate.² Therefore the Board DIRECTS PSE&G to modify its Third Party Supplier Customer Account Services Master Service Agreement to incorporate by reference this Order and any other past or future applicable Board Orders relating to this Docket. The Board FURTHER DIRECTS PSE&G to make a compliance filing of the revised TPS CAS Master Service Agreement within ten (10) days of the date of this order, and provide a copy of the TPS CAS Master Service Agreement to all TPSs at the same time. TPSs must execute the new TPS CAS Master Service Agreement within thirty (30) days of the date of the compliance filing. Failure to execute the revised TPS CAS Master Service Agreement within the thirty day period will result in the return of all the TPS’s customers to dual billing in accordance with established rules.

Elizabethtown Gas Co., New Jersey Natural Gas Co. (“NJNG”), and South Jersey Gas Co. do not have Board-approved TPS CAS Master Service Agreements similar to PSE&G. Over time each GDC has developed their own controlling documents to govern operations between the TPS and the GDC. Therefore, for ETG, NJNG and SJG, the foregoing changes should be incorporated into the appropriate controlling agreements between the TPS and the GDC. The Board DIRECTS ETG, NJNG and SJG to modify their appropriate agreements, and to incorporate by reference this Order and any other past or future applicable Board Orders relating to this Docket, within ten (10) days of the date of this Order. If legally necessary, TPSs must execute the revised agreements within forty (40) days of the date of this Order. Failure to

² The Master Service Agreement was developed for use in the electric industry by the CAS Implementation Working Group, and was approved by Board Order of September 27, 2001 under Docket No. EX99090676. This Order indicates that the Master Service Agreement is intended for use by the electric industry and for PSE&G’s gas operations, in as much as PSE&G provides both electric and gas service. The other gas distribution companies were not affected by this Order, and are not currently required to file a Master Service Agreement with the Board.

execute the revised TPS CAS Master Service Agreement within the forty day period will result in the return of all the TPS's customers to dual billing in accordance with established rules.

Also, the Board understands that item (f) found above, concerning the monthly arrearage report on all delinquent accounts of 60 days or more, will require system upgrades. Therefore, the Board will allow the billing parties 120 days from the signing of this Order to implement the necessary changes.

The Board also understands the working group's reluctance to undertake the effort and expense involved in the creation of the customer data card, due to its dubious chance of success, as well as the fact that the Board now allows several other methods for marketing to customers that were not in effect during the first CAS proceedings. Therefore, the Board FURTHER ORDERS that as it pertains to the CAS Stipulations, the customer data card will no longer be considered.

However, the Board realizes that as the gas and electric power markets develop further, more customer outreach will be necessary in the future. As part of any future outreach effort, the Board's Division of Energy and Office of Communication Staff will review other possible methods of facilitating TPS access to customer information, and will work in cooperation with the gas distribution companies, the electric distribution companies, and the TPSs to develop this process.

The Board agrees with the working group's finding that the competitive marketplace in New Jersey, for both the electric and natural gas industries, is not sufficiently developed to economically warrant the development of competitive metering services at this time. Thus, the Board ORDERS that in the CAS/EDECA context, competitive metering be tabled until no earlier than two years from the date of this Order, subject to being revisited upon a request by an industry participant and with concurrence of the Board. This does not preclude the Board from revisiting this issue on its own initiative if market conditions so warrant, or the LDCs from offering metering alternatives, including enhanced meter data options, to meet the expressed need of TPSs, TPS customers and utility customers. Indeed, the Board encourages the utilities to continue to respond to the metering needs of the industry.

In light of previous Board ordered changes to the list of authorized methods for TPSs to obtain customer historical usage data, neither the Board nor the electric and natural gas industry can find any reason not to allow registered energy consultants to use the same methodologies. There are no consumer protection concerns, as energy consultants can presently obtain the information via a customer signature. The proposed change merely adds the same Board approved methodologies allowed for TPSs. The \$10,000 surety bond adds another level of consumer protection, as the energy consultant could face forfeiture of the bond if the information is used improperly. The Board supports the activities of energy consultants in assisting with customer aggregation and providing energy advice to large commercial and industrial customers, and wants to remove any impediments to the development of the competitive energy marketplace.

Therefore, the Board HEREBY MODIFIES its Order of January 9, 2004 to include registered energy consultants, thus allowing as an alternative to the customer's written signature, that a registered energy consultant may receive historical usage data from the electric distribution company ("EDC") or gas distribution company ("GDC") by obtaining (1) the customer's electronic signature; (2) an audio recording of a telephone call initiated by the customer; (3) independent third-party voice-log authorization of a telephone call initiated by the TPS; or (4) pursuing such alternative forms of verification as the Board, in consultation with the Division of Consumer Affairs, may permit. All other elements of the Board's January 9, 2004 Order remains in effect.

The Board also MODIFIES its Order of March 1, 2000, that created the energy consultant category, to include the additional customer authorization methodologies found above.

All other elements of the Board's March 1, 2000 Order remains in effect.

It is intended that this Order be in furtherance of EDECA and the Board's interest in promoting competition and retail choice.

DATED: ***June 24, 2004***

BOARD OF PUBLIC UTILITIES
BY:

SIGNED

JEANNE M. FOX
PRESIDENT

SIGNED

FREDERICK F. BUTLER
COMMISSIONER

SIGNED

CAROL J. MURPHY
COMMISSIONER

SIGNED

CONNIE O. HUGHES
COMMISSIONER

SIGNED

JACK ALTER
COMMISSIONER

ATTEST:

SIGNED

KRISTI IZZO
SECRETARY